## PETITION FOR THE RESTORATION OF AN INDIVIDUAL FORMERLY FOUND TO BE IN NEED OF A GUARDIAN AND/OR CONSERVATOR

#### **INSTRUCTIONS**

#### I. Specific Instructions

- 1. This form is to be used for filing a Petition for the Restoration of a Ward (formerly Incapacitated Adult) pursuant to O.C.G.A. § 29-4-42 and § 29-5-72.
- 2. The burden of proof is on the Petitioner to show by a preponderance of the evidence that there is no longer a need for a guardianship/conservatorship.
- 3. According to Probate Court Rule 5.6 (A), unless the Court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it may be served according to law. All pages after the Notice regarding Uniform Probate Court Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the Court.
- 4. In any case in which the Ward's rights are restored, when the Former Ward owns real property, a Certificate of Creation of Conservatorship will be completed by the Clerk of the Probate Court and filed with the Clerk of the Superior Court of each county of this state in which the Former Ward owns real property within thirty (30) days of the date of such order.
- 5. The Certificate to the GBI page shall be used in all cases where a guardianship and/or conservatorship is/are established. Individuals so listed in this database will be prohibited from obtaining a firearm permit. In the event the Ward's rights are restored, such restoration of rights **shall** be sent to the GBI, so the database can be updated. Only the Certificate needs to be sent to the GBI and not the Guardianship Order.

#### II. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each Probate Court or at www.gaprobate.gov, labeled GPCSF 1.

#### IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. \_\_\_\_\_ **WARD** PETITION FOR RESTORATION OF AN INDIVIDUAL FORMERLY FOUND TO BE IN NEED OF A GUARDIAN AND/OR CONSERVATOR [NOTE: Unless there are two or more Petitioners, the affidavit beginning on page 5 must be completed by a physician, psychologist, or licensed clinical social worker based upon an examination within 15 days prior to the filing of this Petition.] 1. The Petition of Middle [Full name of Petitioner] First whose relationship to the above named Ward is \_\_\_\_\_\_, whose domicile is City County State Zip Code and mailing address is \_\_\_\_\_ Street City County State Zip Code **AND** [Initial either (a) or (b) below] The Petition of \_\_\_\_\_ \_\_ (a) [Full name of Petitioner] First Middle Last whose relationship to the above named Ward is , whose domicile is \_\_\_\_ City County State Zip Code and mailing address is \_\_\_\_\_ Street City County State Zip Code OR

(b) attached as pages 5-6 and made a part of this Petition is the completed affidavit of, a physician, psychologist, or licensed clinical social worker licensed to practice in Georgia, who has examined the Ward within fifteen (15) days prior to the filing of this Petition, and shows to the Court the following

2.

The Wa	rd					
	[Full name of	Ward]	First		Middle	Last
whose age is	, date o	of birth is			, Social S	ecurity Number is
		, domicile	is			
			Street	City	County	State Zip Code
and is presently	located at	Street	City	County	State	Zip Code
which is a (typ	e of facility i		,	•		•
	• •					
and can be cont	acted at teleph	one number:				
			3.			
The Wa	rd is no longer	in need of a	guardian and/or	conservato	or because	):
•	nissible, the Po				_	's/social worker's

4.

[NOTE: please provide the name or spec	cify "N/A"]
The current guardian(s) is/are	and
The current conservator(s) is/are	·
Additional Data: [Where full part omission.]	5. rticulars are lacking, state here the reasons for any such
<ul><li>as required by law;</li><li>that upon receipt of the evaluar</li></ul>	sel and an evaluator for the Ward and order an evaluation tion report, the court order a hearing to determine the d/or conservator for the Ward; and
Signature of First Petitioner	Signature of Second Petitioner, if any
Printed Name	Printed Name
Mailing Address	Mailing Address
Telephone Number	Telephone Number
Signature of Attorney	
Printed Name of Attorney	
Address	
	G D
Telephone Number	State Bar #

#### **VERIFICATION**

GEORGIA, COUNT	Y
state(s) that the facts set forth in the foregoing	ersigned Petitioner(s) who, after being duly sworming Petition for the Restoration of an Individual ator (and the attached exhibits) are true and correct
Sworn to and subscribed before me this day of, 20	
	Signature of First Petitioner
NOTARY/CLERK OF PROBATE COURT	Printed Name of First Petitioner
My Commission Expires	
Sworn to and subscribed before me this day of, 20	
	Signature of Second Petitioner
NOW A DAY OF EDV. OF EDOD A TEL COLUMN	
NOTARY/CLERK OF PROBATE COURT	Printed Name of Second Petitioner
My Commission Expires	

# 

## AFFIDAVIT OF PHYSICIAN, PSYCHOLOGIST, OR LICENSED CLINICAL SOCIAL WORKER

I, being first d	uly sworn, depose and say that I am a physician licensed to practice under
	43 of the Official Code of Georgia Annotated, a psychologist licensed to
<del>-</del>	er 39 of Title 43 of the Official Code of Georgia Annotated, or a Licensed
	er; that my office address is,
Georgia, and that I ha	ve examined the above-named Ward on the day of,
20 [ <b>NOTE</b> .	The examination on which this affidavit is based must occur WITHIN
FIFTEEN (15) DAY	S prior to the filing of the Petition]. I found him/her to:
[initial all applicable	1
(a.)	[for restoration regarding guardianship:] now have sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety.
(b.)	[for restoration regarding conservatorship:] now have sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.
(c.)	[for retention of guardianship:] still lack sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety.
(d.)	[for retention of conservatorship:] still lack sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.

The following facts support my opinion:		
WITNESS MY HAND AND SEAL this	day of	, 20
Sworn to and subscribed before me this day of, 20		
•	Signature of (Physician)(Psy	ychologist)(Social Worker)
	Typed Name	
Notary Public		
My commission expires on the day of, 20		
(NOTARIAL SEAL AFFIXED)		
[NOTE: The examination on which this af DAYS prior to the filing of the Petition.]	fidavit is based must occur	WITHIN FIFTEEN (15)
r		

### IN THE PROBATE COURT OF \_\_\_\_\_ \_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. \_\_\_\_\_ WARD ACKNOWLEDGMENT OF SERVICE The undersigned, being 18 years of age or older, laboring under no legal disability and being an interested person identified in Paragraph 4, hereby acknowledges service of a copy of Petition for Restoration of an Individual Formerly Found to be in Need of a Guardian and/or Conservator, waives further service and notice. Sworn to and subscribed before me this \_\_\_\_\_, day of \_\_\_\_\_\_, 20\_\_\_\_\_ Signature NOTARY/CLERK OF PROBATE COURT Printed Name My Commission Expires \_\_\_\_\_ \_\_\_\_\_\_ Sworn to and subscribed before me this \_\_\_\_\_, day of \_\_\_\_\_\_, 20\_\_\_\_\_ Signature NOTARY/CLERK OF PROBATE COURT Printed Name My Commission Expires \_\_\_\_\_ \_\_\_\_\_\_ Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_\_ Signature NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires \_\_\_\_\_

#### **NOTICE**

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT.

SEE PROBATE COURT RULE 5.6 (A).

### IN THE PROBATE COURT OF \_\_\_\_\_ \_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. \_\_\_\_\_ WARD ORDER FOR SERVICE AND EVALUATION A Petition for Restoration of an Individual Formerly Found to be in Need of a Guardian and/or Conservator having been read and considered, and it appearing that there is sufficient evidence to believe that the Ward may no longer be in need of a guardian and/or conservator within the meaning of O.C.G.A. § 29-4-1 and/or § 29-5-1, IT IS HEREBY ORDERED that (physician) (psychologist) (licensed clinical social worker), is appointed to evaluate the abovenamed Ward at \_\_\_\_: \_\_\_\_ .m., on \_\_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ [location]. IT IS FURTHER ORDERED that the above-named Ward shall submit to an evaluation at the time and place stated above; IT IS FURTHER ORDERED that the evaluator shall explain the purpose of the evaluation to the Ward; IT IS FURTHER ORDERED that a Clerk shall immediately notify the Ward, the conservator (if any), the guardian (if any), and the Ward's legal counsel of these proceedings by having all pleadings, as well as this order and a Notice of Petition to Restore an Individual Formerly Found to be in Need of a Guardian and/or Conservator pursuant to O.C.G.A §§ 29-4-42 and/or 29-5-72.

Judge of the Probate Court

IN THE PROBATE COURT	Γ OF COUNTY
STA	T OF COUNTY TE OF GEORGIA
IN RE: ESTATE OF	) ) , ) ESTATE NO
WARD	)
CERTIFICATE OF MAILING O	OF ORDER AND NOTICE OF PROCEEDINGS
(if any) and attorney with a copy of the P	lay served the Petitioner(s); the Ward's guardian ad litem Petition, order, and notice of proceedings to restore rights in envelope addressed to each and depositing same in the age thereon.
This day of	, 20
	Clerk of the Probate Court
	Address
	Telephone Number
CERTIFICATE OF MA	AILING OF ORDER FOR DISMISSAL
order for dismissal by placing a copy of same in the U.S. Mail, first-class, with ad-	day served the Ward with a copy of the (Petition and)* ame in an envelope addressed to the Ward and depositing dequate postage thereon. I have also served a copy of the pon the persons required in said order to be so served.
This day of	, 20
	Clerk of the Probate Court
	Address
	Telephone Number

<sup>\*</sup> not necessary if dismissal is after evaluation.

### IN THE PROBATE COURT OF \_\_\_\_\_ \_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. WARD NOTICE TO WARD OF PROCEEDINGS TO RESTORE RIGHTS TO: This is to notify you of a proceeding initiated in this court by \_\_\_\_\_ and \_\_\_\_\_ seeking to restore your rights and to inform you of your right to independent counsel. If you wish to retain your own attorney, you must notify this Court within two days; otherwise, an attorney will be appointed for you by the Court. You are further notified that has been appointed by the Court to evaluate you. If you wish your rights restored, you must submit to an evaluation by being present at:\_\_\_\_\_ [location] after the service of notice on you. YOU ARE FURTHER NOTIFIED: YOU AND YOUR ATTORNEY HAVE THE RIGHT TO ATTEND ANY HEARING HELD ON THIS MATTER. WITNESS MY HAND AND SEAL this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_\_. Clerk of the Probate Court

GPCSF 65 [11] Eff. July 2016

Printed Name

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## IN THE PROBATE COURT OF \_\_\_\_\_ \_\_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. \_\_\_\_\_ WARD APPOINTMENT OF ATTORNEY It appears that the Ward has not notified the court of his or her retention of counsel; therefore, the attorney named below is hereby appointed as counsel for the Ward: Printed Name of Attorney: Address: Telephone Number: The Clerk shall serve the appointed attorney with a copy of the Petition and any amendments, any objections, and all other orders pertaining to this case via first class mail. SO ORDERED this day of , 20 . Judge of the Probate Court I certify that I have on this date mailed (unless otherwise noted) in an envelope with proper postage affixed thereto for first-class delivery a copy of this order to the following parties at the address listed below: Clerk of the Probate Court Address Telephone Number

# IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. \_\_\_\_ WARD COURT APPOINTED EVALUATOR'S REPORT In compliance with the Order of the Probate Court of \_\_\_\_\_\_ County dated \_\_\_\_\_\_, 20\_\_\_\_\_, I performed an evaluation of the above-named Ward on \_\_\_\_\_\_, 20\_\_\_\_. This evaluation took place at \_\_\_\_\_\_ The evaluation continued for \_\_\_\_\_ (minutes)(hours). I explained the purpose of the evaluation to the Ward. The following questions and tests were utilized in the evaluation: Below is a list of all persons and other sources of information consulted in evaluating the ward: The following is a description of the Ward's mental and physical state and condition, including all observed facts considered by me: The following is a description of the overall social condition of the Ward, including support, care, education, and well-being, and the functional capabilities of the Ward, if determined by the evaluator:

GPCSF 65 [14] Eff. July 2016

[initial all applicable	
(a.)	I find that the Ward continues to be incapacitated by reason of:
	to the extent that said Ward lacks sufficient capacity
	to make or communicate significant responsible decisions concerning his/her health and safety.
(b.)	I find that the Ward continues to be incapacitated by reason of:
	to the extent that said Ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the
	management of his/her property.
(c.)	I find that the Ward now has sufficient capacity to make or communicate significant decisions concerning his/her health and safety.
(d.)	I find that the Ward now has sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her
	property.
	Physician licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated/
	Psychologist licensed under Chapter 39 of Title 43 of the
	Official Code of Georgia Annotated/ Licensed Clinical Social Worker
	Licensed Chinical Social Worker
Sworn to and subscri	
day of	, 20
	OF PROBATE COURT ires
•	

[NOTE: This report must be filed with the Probate Court no later than seven (7) days after the date of examination.]

### IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF **ESTATE NO.** \_\_\_\_\_ WARD ORDER FOR DISMISSAL The Petition for Restoration of an Individual Formerly Found to be in Need of a Guardian and/or Conservator having been read and considered pursuant to O.C.G.A. § 29-4-42 and/or O.C.G.A. § 29-5-72, and (initial one): \_\_\_\_\_(a.) Based on the allegations made in the Petition and prior to the court-ordered evaluation, it appears that there is not probable cause to believe that the Ward no longer is in need of a guardian or conservator within the meaning of O.C.G.A. § 29-4-1 and/or O.C.G.A. § 29-5-1; therefore, it is ORDERED that the petition is dismissed. IT IS FURTHER ORDERED that a copy of the Petition, the affidavit, if any, and this order be served on the Ward by first-class mail, and a copy of this order be served in the same manner upon the Petitioner(s) or his/her/their attorney, if any. (b.) Based on the allegations made in the Petition and after review and consideration of the court-ordered evaluation report filed with this Court, this Court finds that there is not probable cause to support a finding that the Ward no longer is in need of a guardian or a conservator within the meaning of O.C.G.A. § 29-4-1 and/or O.C.G.A. § 29-5-1; therefore, it is ORDERED that the petition is dismissed. IT IS FURTHER ORDERED that a copy of this order and the court-ordered evaluation report be served on the Ward, his attorney, his guardian ad litem, if any, and to the Petitioner(s) or her/her/their attorney, if any, by first-class mail.

Judge of the Probate Court

### IN THE PROBATE COURT OF \_\_\_\_\_ \_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. WARD ORDER AND NOTICE OF HEARING After review and consideration of the Petition and the court-ordered evaluation report filed with this Court, the Court finds that there is probable cause to support a finding that the Ward no longer is in need of a guardian and/or conservator within the meaning of O.C.G.A. § 29-4-1 and/or O.C.G.A. § 29-5-1, THEREFORE, it is ordered and adjudged that: \_\_\_\_\_, 20\_\_\_\_, which is not less than 10 days from the date that this notice is mailed, to determine the need for the restoration of the Ward's rights, to be held (in the Probate Court of \_\_\_\_\_ County, Courtroom\_\_\_\_, (address) Georgia) (at the following location: \_\_\_\_\_\_). The Ward shall be represented by \_\_\_\_\_\_, attorney, at such hearing. 2. A copy of this order and a copy of the evaluation report shall be sent to the Ward, his/her attorney and guardian ad litem, if any, and to the Petitioner(s) and his/her/their attorney, if any as well as to the Court appointed Guardian, if any, and the Court appointed Conservator, if any. These copies shall be sent by a clerk, firstclass mail, as soon as practicable after the signing of this order.

GPCSF 65 [17] Eff. July 2016

Judge of the Probate Court

#### IN THE PROBATE COURT OF \_\_\_\_\_ \_\_\_\_ COUNTY **STATE OF GEORGIA** IN RE: ESTATE OF ESTATE NO. WARD STIPULATION AND WAIVER BY WARD'S ATTORNEY The undersigned, as the attorney representing the above-named Ward in these proceedings, [initial all applicable] does hereby stipulate into evidence the affidavit prepared by [name of \_\_\_\_ (a.) affiant evaluator] the evaluation report ordered by the Court in this matter, and hereby waives the appearance of such affiant at any hearing concerning the said Petition. does hereby stipulate into evidence the affidavit(s) prepared by [name of \_\_\_\_ (b.) affiant evaluator] \_\_\_\_ is the affidavit referred to in Paragraph 1 (b) of the Petition, and hereby waives the appearance of such affiant at any hearing concerning the said petition. \_\_\_\_ (c.) does further waive the appearance of my client, the Ward, at said hearing. This \_\_\_\_\_\_, 20\_\_\_\_\_. Attorney Printed Name of Attorney \_\_\_\_\_ Address

Telephone Number

\_\_\_\_\_ State Bar # \_\_\_\_\_

IN THE PROBATE COURT OF COUNTY STATE OF GEORGIA
IN RE: ESTATE OF ) , ) ESTATE NO
FINAL ORDER
A hearing was held on the Petition for Restoration of an Individual Formerly Found to be in Need of a Guardian and/or Conservator on
FINDINGS OF FACT
1. All procedural requirements of O.C.G.A. § 29-4-11 and O.C.G.A. § 29-4-42; and/or O.C.G.A. § 29-5-11 and O.C.G.A. § 29-5-72 have been met.  2. The above-named Ward is no longer in need of a guardian and/or conservator because
The Ward now has sufficient capacity to make or communicate significant decisions concerning his/her health and safety, and now has sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.  CONCLUSIONS OF LAW
The Court finds, by preponderance of the evidence, that the above-named Ward (hereinafter referred to as "Former Ward") is no longer in need of a guardian or conservator because the Ward now has sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety, and now has sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.
THEREFORE IT IS ORDERED that
hereby restored to full capacity and the guardianship/conservatorship of said Former Ward is hereby terminated.

IT IS FURTHER ORDERED that before any guardian and/or conservator is released from his/her trust, he/she must file a Petition for Discharge and Final Return if appropriate, with an acknowledgment as executed by the Former Ward and that Petition for Discharge and Final Return, if appropriate, must be approved by the Court.

IT IS FURTHER ORDERED that a Clerk of this Court shall record the restoration upon all records of this Court, including the previously issued letters of guardianship/conservatorship.

IT IS FURTHER ORDERED that the Clerk of this Court shall, within 30 days of this order, submit a Certificate to the Clerk of the Superior Court of each county of this state in which the restored Ward owns real property, if any, notifying the Clerk to record in the deed records that the Ward has been restored to capacity.

IT IS FURTHER ORDERED that a copy of this Order shall be served by first-class mail on the Former Ward, the Former Ward's attorney; the guardian ad litem, if any; the guardian(s) and/or conservator(s); the petitioner(s); and his/her/their attorney(s).

SO ORDERED th	is day of	, 20
	Judge of the Probate Court/H	earing Officer exercising the
	jurisdiction of the Probate Co	ourt pursuant
	to O.C.G.A. § 29-4-12 (d) (7)	and/or § 29-5-12 (d) (7)

IN THE PROBATE COURT O	FCOUNTY
STATE	OF GEORGIA
IN RE: ESTATE OF  WARD	) ) ESTATE NO
	AAILING OF FINAL ORDER
	copy of the above Order to the Former Ward, his/her representatives), the guardian(s), the conservator(s)
Date	Clerk of the Probate Court
	Address
	Telephone Number
	CERTIFICATE OF RESTORATION F RIGHTS
	/or mailed for filing a Certificate of Restoration of each of the following counties, together with paymen
Date	Clerk of the Probate Court

Probate Cour	t Return Mailing Addi	ress:			
(A	bove space to be used for f	filing in Superior	Court C	lerk's Office of Deeds	and Records)
IN	THE PROBATE CO				_ COUNTY
		STATE OF O	GEOR	GIA	
IN RE: EST	CATE OF		)		
		<b></b> ,	)	ESTATE NO	•
WARD			)		
		TE OF REST suant to O.C.G.		CION OF RIGHT 9-5-13 (d))	CS
					S REFERENCE:
DATE ORDE	ER ISSUED:	DEED BOOK PAGE NO			
	(NAME OF CONSE				
OKANTOK.					
GRANTEE:	(NAME OF FORM	ER WARD)			
Old II (TEE.		en wind)			
	rights of the above Forme				ervatorship previously
Origin	nal Certificate delivere			-	
					, 20
		order of the	Probat		ormation is based on the the date set out above and correct.
		By: Clerk of the		e Court	

### **CERTIFICATE OF GUARDIANSHIP / CONSERVATORSHIP TERMINATED**

Make Electronic Su	bmissions via the	e Georgia Criminal Just	tice Inform	ation Sy	ystem (CJIS) Network
		-OR-			
Georgia Crime Information Center Attention:			Georgia Crime Information Center Attention: CJIS Operations Unit 3121 Panthersville Rd. Decatur, Georgia 30034		
*DATE OF ORDER (mm/dd/yyyy)			*JUDGE'S NAME		
*PROBATE	COURT COUNTY,	ORI NUMBER		*ESTA	TE NUMBER
		BEEN ADJUDICATED TO AS BEEN ESTABLISHED. T SUCH APPOINTMEN	THE ORDER		ENTAL CAPACITY AND NCED ABOVE TERMINATES
*NAME (Last, First, N	1iddle)				
*SEX	*RACE	*DATE OF BIRTH (mm/dd/yyyy)		SOCIAL SECURITY NUMBER (###-##-####)	
CURRENT ADDRESS	S (Street Address)				
	CITY		STA	ΙΤΕ	ZIP CODE
SIGNATURE (Court Official)					DATE SIGNED
		*Court Official's Ti	itle		

<sup>\*</sup>Mandatory Field

IN THE PROBATE COURT OF _	COUNTY
STATE O	F GEORGIA
IN RE:	)
	) ) ESTATE NO
WARD	)
GUARDIANSHIP/CON  I hereby certify that the above-stated in date mailed this Certificate of Guardianship/C of Investigation by placing copies of same in	FILING OF CERTIFICATE OF SERVATORSHIP TERMINATED  Information is true and correct and that I have this conservatorship Terminated to the Georgia Bureau and an envelope addressed as set forth above and
depositing same in the U.S. Mail, first-class, wi	ith adequate postage thereon.
This day of	, 20
Clerk of t	he Probate Court